

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 12691, of Jack Bachman, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3104) to permit an office (4th floor) in the R-4 District at the premises 2142 Cathedral Avenue, N.W., (Square 2205, Lot 54).

FINDINGS OF FACT:

1. The subject site is located on the west side of Cathedral Avenue, approximately sixty feet south of its intersection with Woodley Road, known as 2142 Cathedral Avenue. It is in an R-4 District.
2. The property slopes uphill west of Cathedral Avenue and consists of 2, 734 square feet of land area. The site is developed with a tan brick four story row dwelling built in 1965. There is an asphalt driveway and parking area in front of the dwelling that is shared by neighboring property owners.
3. Surrounding land uses and zone districts include row dwellings in the R-4 District, to the north, west and south, and National Zoological Park land to the east.
4. The applicant is requesting permission to use the 4th floor of his residence in the R-4 District as an office to conduct his business.
5. The subject office use has operated without a Certificate of Occupancy (illegally) for eleven years.
6. The applicant is in the business of buying and selling various merchandise. None of the merchandise is brought to or stored at the premises. No sign or display is used and nothing exists on the exterior of the dwelling that would indicate that it is anything other than a dwelling.
7. An inspection and research of record by a field representative of the Zoning Inspection Branch, Department of Housing and Community Development disclosed the subject premises being used as an office without a proper certificate of occupancy.

8. The only office use allowed as a matter-of-right in the R-4 District is an office of a physician or dentist residing on the premises as an accessory use. All other office uses are first allowed by BZA approval or matter-of-right in the SP or C-1 Districts.

9. There are two to three persons employed at the subject office not including the applicant.

10. Access to the premises is via an asphalt paved driveway from Cathedral Avenue. The driveway leads to a common parking area shared by several dwellings.

11. The development within a 100 foot radius of the subject property is in residential uses with a predominate building type of row dwellings. There are no visible signs of conversion of dwellings to commercial uses in this area. In fact several dwellings have been renovated externally, improving their appearance and adding to the overall liveability of the neighborhood.

12. The subject property does not have any exceptional topographic characteristics, nor is its rectangular shape peculiar compared to the other lots in the neighborhood.

13. The Municipal Planning Office by report dated August 10, 1978, and by testimony at the hearing, recommended that the application be denied, stating that the subject premises is not an appropriate location for an office use. There are commercially zoned properties located within 400 feet of the property where an office use is permitted as a matter-of-right. The MPO reported that there are no difficulties or hardship associated with the property which would result from the denial of the application. The Board so finds.

14. Advisory Neighborhood Commission 3C, by letter dated July 25, 1978, stated that the Commission had no objection to the application; however, if approved, to insure the protection of the adjacent property owners, certain conditions should be placed on the applicant.

15. The Woodley Park Community Association was in opposition to the case on the grounds that the conversion of residential properties to commercial properties would inevitably lead to the erosion of the residential character of the area.

16. Property owners within 900 feet of the subject site testified in opposition to the application on the grounds that an office use in the R-4 District would not be in keeping with the surrounding uses.

17. The abutting property owners submitted a statement in opposition to the application.

CONCLUSIONS OF LAW:

The applicant is requesting a use variance, the granting of which requires the showing of undue hardship related to extraordinary, or exceptional circumstances or condition of this specific piece of property. The record reveals that there are no exceptional characteristics which distinguish this piece of property from surrounding properties and would inhibit the applicant from using subject premises for the purpose under which the area is zoned. The Board concludes that the applicant has failed to satisfactorily address the requirements of Section 8207.11 of the Zoning Regulations. The Board concludes that although the applicant has operated the subject office for eleven years without a Certificate of Occupancy and without apparent harmful effect, the application must be denied. It is therefore ORDERED that the application be DENIED.

VOTE: 5-0 (William F. McIntosh, Chloethiel Woodard Smith, Charles R. Norris, and Leonard L. McCants to DENY; John G. Parsons to DENY by PROXY).

ATTESTED BY:



STEVEN E. SHER
Executive Director

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

FINAL DATE OF ORDER: 29 SEP 1978